

kind and character of street paving which may be placed in any such addition. (Act of 1905; amended December 30, 1922)

ARTICLE II. CORPORATE AND GENERAL POWERS*

Section 1. Corporate Powers.

The City of Houston, made a body politic and corporate by this Act, shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever, may take, hold and purchase lands as may be needed for the corporate purposes of said City, and may sell any real estate, or personal property owned by it, perform and render all public services, and when deemed expedient, may condemn property for public use, and may hold, manage, and control the same, such condemnation proceedings to be governed and controlled by the law now in force in reference to the condemnation of the right of way of railroad companies and the assessment of damages therefor, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said City as a corporation not in conflict with the provisions of this Act, and shall enjoy all the rights, immunities, powers, privileges, and franchises now possessed and enjoyed by said City and herein granted and conferred. (Act of 1905)

Section 2. General powers.

(a) The City Council shall have power to enact and to enforce all ordinances necessary to protect life, health and property; to prevent and summarily abate and remove nuisances; to preserve and promote good government, order, security, amusement, peace, quiet, education, prosperity and the general welfare of said City and its inhabitants; to exercise all the municipal powers necessary to the complete and efficient management and control of the municipal property and affairs of said city to effect the efficient administration of the municipal government of said city;

*Note—The title of this article was added by the editor; it was not titled in the 1905 Special Act or any of the subsequent amendments.

to exercise such powers as conduce to the public welfare, happiness and prosperity of said city and its inhabitants; and to enact and enforce any and all ordinances upon any subject; provided, that no ordinance shall be enacted inconsistent with the provisions of this charter; and, provided further, that the specification of particular powers shall never be construed as a limitation upon the general powers herein granted; it being intended by this charter to grant to and bestow upon the inhabitants of the City of Houston and the City of Houston full power of local self government, and it shall have and exercise all powers of municipal government not prohibited to it by its charter, or by the provisions of the Constitution of the State of Texas.

(b) The City shall have all powers that are or hereafter may be granted to municipalities by the Constitution or laws of Texas; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council.

In addition to all the powers enumerated in this charter, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise in the manner hereinbefore provided, all other powers which, under the Constitution and laws of this State, it would have been competent for this charter specifically to enumerate. (Act of 1905; amended October 15, 1913)

Sec. 3. Real Estate, etc., Owned by City.

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, market houses, school houses, fire engine stations, public squares, parks, streets, alleys and all property of whatever kind, character and description which has been granted, donated, purchased or otherwise acquired by the City of Houston through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held and is now held, controlled or used by said City of Houston for public uses or in trust for the public, shall vest in

and remain in, and inure to, the said corporation, the City of Houston, under this Act; and all suits and pending actions to which the City of Houston heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this Act, but shall continue unabated. (Act of 1905)

Sec. 4. Street Powers.

The City of Houston shall have power to lay out, establish, open, alter, widen, lower, extend, grade, narrow, cure for, sell, pave, supervise, maintain, and improve streets alleys, sidewalks, squares, parks, public places and bridges; and to vacate and close the same and to regulate the use thereof, and to require the removal from the streets and sidewalks of all obstructions, telegraph, telephone, street railway or other poles carrying electric wires, signs, fruit stands, show cases and encroachments of every character upon said streets or sidewalks; to vacate and close private ways. (Act of 1905)

Sections 4-a and 4b. Repealed.

Note—These sections, which related to street opening and condemnation, were repealed by the voters at the November 2, 1999, Charter Election. The repealer included the following savings clause:

This repealer shall not be construed to affect the validity of any action taken or right or obligation created or assumed under the said provisions prior to their repeal, and the said provisions are saved from repeal for the limited purpose of the continued enforcement of rights and obligations that arose thereunder prior to their repeal.

Section 5. To Regulate Street and Electric Railway Companies.

The City of Houston shall have the power by ordinance or otherwise to regulate the speed of engines, locomotives and street cars within the limits of said City, and to require steam railway companies to keep the streets over which they run properly drained, and to light the same wherever deemed necessary; and to require steam and electric railway companies to construct and keep in repair from curb to curb bridges and crossings over all the ditches, and to construct and maintain drains and culverts where crossed by any line of said railways on all streets over which they run.

To direct and control the laying and construction of railroad tracks, turnouts and switches, and to regulate the grade of same, and to require them to conform to the grade of the streets of said City as they may be or are now established, and that said tracks, turnouts and switches be so constructed and laid out as to interfere as little as possible with the ordinary travel in the use of the streets.

The City of Houston shall have power by ordinance or otherwise to require steam railways using any portion of the streets of the City to pay all or any part of the paving, grading, draining and repair thereof along the street so used by such railway, and to light the same whenever and wherever deemed necessary or advisable.

Said City shall have power by ordinance or otherwise to require any street or electric railway company to pay the cost of the grading, paving repairing or repaving or otherwise improving the street or streets or intersections thereof used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of the street occupied by an electric or street railway company shall be deemed to be the space between its tracks and twelve inches on the outside of each of its rails, and all the space between double tracks, turnouts and switches.

Any railroad company or street railway company proposing, with the permission of the Council, to occupy any street or streets already occupied by any other such company, shall, besides paying for paving as may be required by the City Council or by the provisions of this Act, be required also to pay for paving between the tracks of said two roads to within twelve inches of the track of such other road, and such cost shall be a lien upon the property and franchises of the company.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this Act, it shall become liable for the portion of the cost of such improvement as the City Council may direct or as is fixed by this Act.

No railroad or street railway company shall be permitted to occupy any street or portion of a street, improved or otherwise, not previously occupied by it, except with the permission of the City Council.

The City Council shall have power by ordinance to require any street car or electric railway company, or other person or corporation operating street cars in, into or through the City of Houston, to issue to its passengers transfers from any of its lines to any other lines within the City, upon the payment by said passenger of the fare or rate prescribed for one continuous passage. (Act of 1905)

Section 5-A. Interchange of Service or Common use of Tracks, poles, etc.

The City of Houston shall have the power by ordinance, to provide for the interchange of service or common use, by and between every person, firm, corporation, assignee, trustee or receiver, including the City of Houston, owning, using, operating or controlling any franchise or public utility in the City of Houston, over and of the lines, tracks or properties owned, held, maintained or operated by such person, firm, corporation, assignee, trustee or receiver under such franchise, and to have the power to enforce all ordinances passed hereunder by appropriate provisions, penal or otherwise, including the repeal and forfeiture of any of said franchises for non-compliance with the provisions of any ordinance or requirement passed under authority hereof.

By the term "interchange of service or common use" as herein used is meant, that any person, firm, corporation, assignee, trustee or receiver holding a franchise from the City for any public utility shall allow the use by the City of Houston, or any other person, firm, corporation, etc. owning, using, operating or controlling any franchise or public utility in the City of Houston upon the payment of a reasonable rental for such use of any of its poles, tracks, wires, conduits, electric current, right of way or other properties or equipment.

The City of Houston shall also provide such reasonable rates of charge and conditions of use as in its judgment may be meet and proper, and

the City Council shall especially have the power to compel any railroad or terminal company, whether operated by steam, electricity or other power to allow any other terminal or railroad company or the City of Houston to use its tracks or physical property under such reasonable regulations as to time and manner of use and compensation therefor as the city council may fix. (Added by amendment October 15, 1913)

Sec. 6. To Regulate Rates of Public Utilities.

The City Council shall have the power by ordinance to fix and regulate the price of water, gas and electric lights, and to regulate and fix the fares, tolls and charges of local telephones and exchanges; of public carriers and hacks, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates tolls or charges of all public utilities of every kind.

To fix and regulate the fares and charges of electric or street railway companies, and shall require by ordinance, under proper penalties, that any street railroad using any of the streets of the City shall for one fare give a transfer from any of its lines to any other line in the City, whether such other line be owned by it or any other company, and in addition to the penalties to be prescribed by ordinance for the failure to give transfers, shall have the right by mandamus or other proper remedy in any court of competent jurisdiction to enforce any ordinance requiring the giving of transfers by any street railroad company; and in addition thereto, the City of Houston may recover of the street railway company the sum of twenty five dollars as penalty and liquidated damages for each and every failure to give a transfer.

It shall be unlawful to continue, amend or extend any street railroad franchise, without binding any such railroad to give universal transfers, under provisions to be fixed by general ordinance. (Act of 1905)

Section 6-A. Service and Extensions by Public Utility Concerns.

The City of Houston shall also have power by ordinance to prescribe the character, quality and efficiency of service to be rendered, given, per-

formed and furnished, and the kind and design of material to be used in all their improvements by persons, firms, corporations, assignees, trustees or receivers engaged in the business of furnishing water, gas, electric lights, telephone service or in the transportation of passengers, or freight and baggage, or in the operation of any public utility of any kind operated under franchise from the City of Houston, and the improvement of their service in a manner necessary or required for the public comfort and convenience, and to make improvements and betterments of their property. The City of Houston shall also have the power to regulate the extensions of the lines or service of any public utility operated under franchise from the City of Houston, and shall have the authority by ordinance to require, prohibit or otherwise regulate such extensions of lines or service, and the City Council may of its own motion, and shall at the request of any person, firm, or corporation affected by any such proposed extension make provision for a hearing for the purpose of determining the reasonableness thereof and public necessity therefor.

All such hearings shall be conducted under such provisions as the City Council may prescribe. Nothing herein shall prevent the City Council from making general rules and regulations for the extension of lines or service.

The City Council shall have power to enforce all ordinances passed under the authority hereof by appropriate provisions, penal or otherwise, including the repeal or forfeiture of any of said franchises for noncompliance with the provisions of any ordinance passed by authority hereof. (Added by amendment October 15, 1913)

Sec. 7. May Own Waterworks.

The City of Houston may buy or construct, own, maintain and operate a system of waterworks, gas or electric lighting plants, street cars and sewers, and it shall be its duty to regulate, care for and dispose of sewage, wastewater, surface water, offal, garbage and other refuse matter, and to make rules and regulations governing the same, and prescribe penalties for violations of said rules and regulations. (Act of 1905)

Sec. 7a. Ownership, etc. of public utilities.

The City of Houston may by purchase, lease, condemnation, construction or otherwise, establish, own, equip, maintain, conduct and operate, in whole or in part, libraries, reading rooms, art galleries, museums, assembly or convention halls, parks, playgrounds, gymnasiums, baths, public toilets and comfort stations, abattoirs, municipal lodging houses, and tenement houses, dispensaries, infirmaries, free employment bureaus, almshouses, work farms, detention homes, cemeteries, crematories, morgues, works or plants for the preparation, manufacture, handling or transportation of materials required in the construction, completion, maintenance or repair of streets, bridges, sidewalks, sewers and any public work, improvement, building or utility, whether specifically mentioned herein or not, and shall have power to purchase and contract for any and all materials used in connection with the operation of said works or plants, or the maintenance or repair of streets, bridges, etc., hereinabove mentioned, and shall further have power to bid on any public work or improvement proposed or instituted by or in the City of Houston and to contract for the same in like manner and upon the same terms and conditions as other contractors, with the power to purchase any and all materials which may be necessary to carry out and perform such contract whether same are of the kind repaired, manufactured or handled in the plants or works owned by the City of Houston or not. The City of Houston may also, by purchase, condemnation, construction or otherwise establish, own, equip, maintain, conduct and operate in whole or in part steam laundries, ice factories, bakeries, belt and terminal railways and union depots within or without the City of Houston; also, any and all buildings, establishments, institutions and places, whether situated inside or outside the city limits which are necessary or convenient for the transaction of public business or for promoting the health, morals, education or welfare of the inhabitants of the city, or for their amusement, recreation, entertainment or benefit. (Added by amendment October 15, 1913; amended August 14, 1982)

Sec. 7b. Power of the city to buy and sell electricity, etc.

The City of Houston shall have the power to buy gas, electricity, steam, water or any other

kind of power, service or commodity needed for public use, and shall have the right to resell by wholesale or retail all such gas, electricity, steam or water, power, service or commodity which it may not need for its own use; provided, that the city shall not be bound by any contract for the purchase or sale of any gas, electricity, steam or other power, commodity or service for a longer period of time than five years, unless one of the following special requirements is fulfilled, either: (i) the council has approved such contract by motion, resolution or ordinance adopted by a vote of at least two-thirds of the council, or (ii) a proposition for the making of such contract is submitted to a vote of the qualified electors of the City at an election, which proposition must include a summary of the material terms of the contract, and a majority of the votes cast on such proposition is in favor of the making of such contract. Said election shall be held in the manner provided in the applicable state laws, this Charter and the ordinance ordering the same. (Added by amendment October 15, 1913; amended August 14, 1982)

Sec. 8. Fires.

The City of Houston shall have power to provide means for the protection against and the extinguishment of conflagrations, and for the regulation, maintenance and support of the fire department, and for the purpose of guarding against the calamity of fire, may prescribe fire limits, and may regulate or prohibit the erection, building, placing or repairing of wooden buildings within such limits in said City as may by ordinance be designated and prescribed as fire limits, and may also within said limits prohibit the moving or putting up of any wooden buildings from without said limits, and may also prohibit the removal of any wooden buildings from one place to another within said limits, and may direct and prescribe that all buildings within the limits so designated in the ordinance as fire limits shall be made or constructed of fireproof material, the kind, character, extent and quality of which buildings and material may by ordinance be prescribed and fixed, and may prohibit the repairing of wooden buildings in fire limits when the same shall have been damaged to within fifty percent of

the value thereof, and may prescribe the manner of finding such damages, and may declare all dilapidated buildings to be nuisances, and direct the same to be repaired, removed or abated in such a manner as the Council may prescribe, and may declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or which may cause or promote fires, to be nuisances, and may require and cause the same to be removed in such manner as may be prescribed, at the expense of the owner and may further prescribe limits within which only a fire-proof roofing may be used, and may impose a penalty for violations of such rules and regulations.

The City shall have the right by ordinance to regulate, prescribe and govern the storage of lumber, sash, doors, blinds, and any and all kinds of goods, wares and merchandise of every kind, and prescribe limits within which such materials may be carried, and fix penalties for violation of the rules and ordinances governing the same. (Act of 1905)

Sec. 9. Harbor and water front.

Said city shall have power by itself, or in connection with the Harris County Navigation District and the Government of the United States to acquire by purchase, lease, condemnation or otherwise, or to construct, keep, maintain, deepen, widen, cover, wall or alter waterways, channels, slips and canals; and to improve, maintain and control the waterfront and harbors of the city on Buffalo Bayou and its tributaries, whether within or without the city limits, and shall also have power to provide by purchase, lease, condemnation or otherwise and to establish, construct, buy, own, maintain, equip, regulate and operate and to lease or sell the same when constructed elevators, warehouses, bunkers, wharves, docks, dry docks, piers, marine ways, levees, seawalls, moles, draw-bridges, and other structures and appliances for facilitating or accommodating commerce or navigation on Buffalo Bayou and its tributaries, whether within or without the city limits. And it shall also have power to license, regulate and control the use of said streams, or restrain the landing, anchorage, moorage, loading and unloading of steamships and steamboats, sailing vessels, tug

boats, rafts and all other watercraft, on said Buffalo Bayou and its tributaries, whether within or without the city limits; to fix the rates of wharfage, dockage, towage, pilotage and tolls, and to provide for the collection thereof, and to make and enforce regulations governing the use of harbors, docks, wharves and waterfront and other navigable waters and the opening and passing of bridges in the said limits on said Buffalo Bayou and its tributaries, whether within or without the limits of said city. (Act of 1905; amended October 15, 1913, August 14, 1982)

Sec. 10. Markets.

Said City shall have power to establish, lease, maintain, regulate and operate markets and market places and abbatoirs [sic], and to build, own, and maintain buildings therefor, and to rent and lease the same. (Act of 1905)

Sec. 11. Charities and Corrections.

The City shall have power to establish, maintain and regulate the city prison, or city prisons, work houses, rock piles and other means of punishment for vagrants, city convicts and disorderly persons, houses of correction and reformatories for youthful criminals, compulsory schools for children without parents, or vicious parents or parents who willfully and grossly neglect them, and such other places of incarceration and reformatory institutions, and such hospitals, orphanages and charitable institutions as it may deem expedient; provided, however, that no gratuity that is purely personal, and no pension, shall ever be granted to any individual, and no money of the City shall be paid out except for personal services rendered, and for the other purposes specified or authorized by this Act. (Act of 1905)

Sec. 12. Fines for Violation of Ordinances.

That the bylaws and ordinances of the City shall be enforced by a fine not to exceed two hundred dollars (\$200); provided, that no ordinance or by-law shall provide a lesser penalty than is prescribed for a like offense by the laws of the State.

The City Council may provide by ordinance for the commutation of fines imposed, by labor in a

work house or on a rock pile, or upon the public streets and public ways of the City of Houston, and for the collection of any fine imposed execution may be enforced as other execution issued in civil causes. (Act of 1905)

Sec. 13. Corporation Court.

There shall be a court for the trial of misdemeanor offenses, known as the "Corporation Court," with such powers and duties as are defined and prescribed in an act of the Legislature of the State of Texas, and any acts amendatory thereof, entitled, "An Act to establish and create in each of the cities, towns and villages of this State a State Court, to be known as the 'Corporation Court' in each city, town or village, and to prescribe the jurisdiction and organization thereof, and to abolish municipal courts," said Act having been prescribed to the Governor of Texas March 15th, 1899, and not having been by him disapproved.

The Magistrate of said court shall be known as the "Judge of the Corporation Court," who shall be a qualified voter and shall be appointed by the Mayor and confirmed by the City Council, and shall hold his office for two years, unless sooner removed by the Mayor and City Council and shall receive such salary as may be fixed by ordinance.

It shall be the duty of the Mayor, as soon as practicable after the passage of this Act, to nominate some suitable person to the City Council, to be by it confirmed, for the position of Judge of the Corporation Court, who shall discharge the duties of said office under the terms and provisions of the State law creating said court, and also subject to the provisions of this Act.

There shall be a Clerk or Clerks of said court, with such deputies as may be created or provided by ordinance by the City Council, who shall be appointed by the Mayor, and shall be subject to removal at any time by the Mayor or City Council, and shall receive such salary as may be fixed by the City Council.

The Clerk or Clerks of said court, and the deputies thereof, shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally to do and perform all things and acts usually or neces-

sary to be performed by Clerks of courts in issuing process of said courts and conducting the business thereof.

The City Council may require such Clerk, Clerks or deputies created by it to perform such other duties, in addition to the duties of the Clerk or Deputy Clerk, as may be prescribed, or may provide that some other persons, in addition to other duties, may perform the duties of a Clerk or Deputy Clerk, without extra compensation. (Act of 1905)

SECTION 13-a. Substitute judge; acting judge.

In the event of the absence, illness or inability from any cause whatsoever of the Judge of the Corporation Court to act in such capacity the Mayor shall be authorized to nominate some suitable person to the City Council to be by it confirmed to fill such position of Judge of the Corporation Court during the absence, illness or continued inability to serve as the Judge of said Court and such temporary Judge shall discharge all of the duties and have all of the rights, power and authority that the regularly appointed Judge of said Corporation Court has during the tenure of his appointment. (Added by amendment October 16, 1926)

Note—The title of this section was added by the editor; it was not titled in the Ordinance calling the 1926 Charter Election.

Sec. 14. Schools—City of Houston an Independent School District.

The City of Houston shall constitute an independent school district, subject to the general school laws of the State, except where in conflict with this Act, and the City shall have authority to levy and collect taxes and appropriate funds for the support and maintenance of the public schools within its limits.

School Trustees, How Appointed, Terms of Office, etc. The trustees to constitute the school board of said City shall hereafter be appointed by the Mayor, and confirmed by the Council, but the trustees now in office shall continue to serve till the expiration of their respective terms; and all vacancies caused by death, resignation or other

cause, shall be filled by appointment in the same manner for the unexpired term. The regular term of members of the school board shall be two years, and the regular appointment of members shall be made at the first meeting of the Council in May of each year, or as soon thereafter as practicable, and the necessary number of trustees shall be appointed to take the places of those whose terms have expired.

Right Of Mayor To Veto Any Pecuniary Liability. No order, resolution or vote of the school board by which any pecuniary liability shall be incurred, or any funds expended or appropriated, shall become effective until ten days after the same is adopted, and a certified copy thereof furnished to the Mayor, and the Mayor may at any time during said period veto the same by filing his objections thereto in writing with the Secretary of the School Board, who shall enter the objections at large upon the minutes of the Board; said order, resolution or vote shall become void, unless at the next meeting of the Board it shall again be adopted over the veto by the affirmative votes of at least five members, whose names shall be entered upon the minutes of the Board.

City Treasurer Custodian of Funds. The custodian of other City funds, as provided by this Act, shall be the custodian of all public school funds, upon the same terms and conditions as other funds, and his bond shall cover said school funds.

How Funds are to be Paid Out. No school funds shall be paid out except upon pay rolls or warrants signed by the President of the School Board and the Mayor of the City, and countersigned by the City Controller.

Duty of School Board to Make Financial Statements. It shall be the duty of the School Board to make such financial statements or reports as may be requested by the Mayor or the City Council, and the Mayor or Council may make or cause to be made all such investigations as to the expenditures of funds or the conduct of the schools as either may deem proper.

Members of School Board not to Receive any Pay or to be Interested in any Contract or to Buy or Sell any School Warrants, etc. No member of the School Board shall receive any compensation for

his services in any capacity whatever, nor be interested, directly or indirectly, in any contract with or claim or demand of any character against the School Board or the City of Houston. Any such contract, claim or demand shall be void, and any member of said Board who shall become interested in any such contract, claim or demand, or shall buy or sell any school warrants or obligations of said Board, and shall have any interest in any claims or obligations of said School Board, shall be subject to removal by the City Council. (Act of 1905)

Section 14a. School board to furnish free school books.

It is hereby made the duty of the school board to purchase such text books as are required to be used in all the city's schools, to appropriate money from the school funds to pay for said books, and it is hereby made the duty of the Mayor of the City of Houston to approve such appropriations as are necessary to pay for said books, such books to be purchased in the manner as shall hereinafter be provided. For the school year commencing September, 1914, on or about such date, and for all terms and semesters thereafter, the school board shall buy and furnish text books to be used by the pupils of the first four grades, known as First, Second, Third and Fourth grades. For the school year commencing in 1915, and for all terms and semesters thereafter, the school board shall buy and furnish text books to be used by the pupils of the first eight grades, known as First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth grades. For the school year commencing in 1916, and for all terms and semesters thereafter, and for all school years, terms and semesters in the future, for all schools conducted by the City of Houston, including the Freshman, Sophomore, Junior and Senior classes of the High School, the school board shall buy and furnish all books used by all the pupils in all grades whatsoever. The books shall be the property of the City of Houston, and they shall be loaned to the pupils within the scholastic age attending the public schools, free of charge, for use, and no pupil attending school in Houston, Texas, under the provisions of this amendment, shall be deprived of any books necessary for his studies in the aforesaid grades. The control

and distribution of the books shall be governed by such rules as the school board sees fit to make, or by such ordinances as may be passed by the City Council. All laws or parts of laws in conflict herewith shall stand repealed. (Added by amendment October 15, 1913)

Section 15. Burial Grounds, Crematories and Cemeteries.

The City Council shall have power to regulate burial grounds, crematories and cemeteries, and to prohibit burial within the city limits if deemed advisable, or if necessary to protect the public health, and to condemn and close burial grounds and cemeteries in the thickly settled portions of the City, and when demanded by the public interest or public health to remove or cause to be removed bodies interred in such condemned and closed cemeteries and burial grounds, and shall cause them to be re-interred in a suitable place to be provided by the City, at its expense, and whenever advisable the City may condemn the land proposed to be used for the re-interring of bodies, in the same manner as in condemnation suits of railway companies, and use such condemned ground formerly used for cemeteries for such purposes as may best subserve the interests of the City.

The City Council shall have power and authority to make all needful and necessary regulations in regard to butchers and persons selling meats, farm products, fish, vegetables and fruit, and all foodstuffs, and to require the same to be inspected and condemned if not found wholesome, and to provide penalties for violation thereof.

The City Council shall have the right and power by ordinance to provide that the tenant or owner of any property shall pay to the City such reasonable charges for the removal of night soil or other refuse matter from the closets of the premises thereof, and to prohibit anyone except some one in the employ of the City, or by the City authorized to do so, from removing or carrying away the contents of any privy, vault or water-closet, or any receptacle of human excrement, and the City shall have the right to have inspected the premises of all persons at any time in the interest of the public health, and for the purpose of mak-

ing said inspection the officers or agents of the City duly authorized to do so, shall have a right to enter upon the premises of any person at any hour during the day time to make said inspection. Whenever notice is given by any officer or employe of the City inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed and the owner or tenant of said premises shall pay the City the price prescribed therefor, and failure to do so shall subject said persons to the penalties to be prescribed by ordinance, and said persons shall be fined upon conviction in the Corporation Court, in any sum not less than one dollar, nor more than two hundred dollars.

To prevent any person from bringing, depositing or having within the limits of said City any dead carcasses or any offensive or unwholesome substances or matters, and to require the removal or destruction by any person who shall have placed upon or near his premises or elsewhere any substance or matter, filth, or unsound beef, pork or fish, or hides, and skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer or employe of the City, and to require the owner of any dead animal to remove the same to such place as may be designated.

The City Council shall also have the power to pass ordinances authorizing the destroying of clothing, bedding, furniture, and buildings infected with the germs of any infectious or dangerous disease, when in the discretion of the City Council the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of said City.

That said corporation of the City of Houston is hereby given full power and authority to take such steps to improve and preserve the purity of the water in Buffalo Bayou above the City of Houston as it may think necessary, provided that the power in this Section shall not be construed to give said corporation any jurisdiction or control over said Bayou beyond the corporate limits of said City, except for the purpose of protecting or

improving the water shed, i.e., the water supply of both Buffalo Bayou and the smaller streams or tributaries; provided, further, that the said corporation shall have the right to condemn land, buildings and out-houses or closets when they may deem necessary for the protection and preservation of the purity of the water in said Bayou, and shall have such police powers as to control the same.

The City Council shall also have power to require any persons or corporations owning or operating manufacturing enterprises within or without the City, which discharge refuse matter into Buffalo or White Oak Bayous, or the tributaries of either, to make other provision for such refuse matter, or so purify the same as that the public health will be fully protected. (Act of 1905)

Section 15-a. Legal Day's Work.

(a) Eight hours shall constitute a day's work of all laborers, workmen or mechanics now employed or who may hereafter be employed by or on behalf of the City of Houston in any one calendar day where such employment, contract or work is for the purpose of constructing, repairing or improving buildings, bridges, roads, highways, streams, levies, sewer building, pipe laying, water construction or other work of a similar character requiring the services of laborers, workmen or mechanics, except in cases of emergency, in which event the emergency provisions of section (b) hereof shall apply.

(b) All contracts hereafter made by or on behalf of the City of Houston with any corporation, person or association of persons for the performance of any work shall be deemed and considered as made upon the basis of eight hours constituting a day's work, and it shall be unlawful for any corporation, person or association of persons having a contract with the City of Houston to require or permit any such laborers, workmen or mechanics to work more than eight hours per calendar day in doing such work, except in case of emergency or in cases where it may become necessary to work more than eight hours per calendar day for the protection of property, human life or other grave necessity. In such emergencies the laborers, workmen or mechanics so

employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work; provided, that nothing in this amendment shall affect contracts in existence at the time of the taking effect of this amendment.

(c) The City Council shall enact all such ordinances as may be necessary to carry out and make effective the provisions of this amendment. (Added by amendment October 15, 1913)

Section 16. Peace and Good Order.

The City of Houston shall have power by ordinance duly passed to establish and maintain the City Police Department, prescribe the duties of policemen and regulate their conduct.

To permit, forbid or regulate theaters, balls, dance houses and other public amusements, and to suppress the same whenever the preservation of order, tranquility, public safety or good morals may demand.

To regulate dram shops, drinking saloons and other places where intoxicating liquors are sold, and to close variety theaters when necessary, expedient or advisable.

To prohibit and punish keepers and inmates of bawdy houses and variety shows, to prevent and suppress assignation houses and houses of ill fame, and to regulate, colonize and segregate the same, and to determine such inmates and keepers to be vagrants, and provide for the punishment of such persons.

To inspect weights and measures, fix standards of weights and measures, and to fix penalties for not using or conforming to the same, and to provide that inspection fees may be fixed by ordinance.

To make all needful and proper regulations concerning keepers of taverns and grog shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons and other vehicles, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains, and to

provide how and where hacks or other carriers shall stand or take their position upon the streets adjacent or near to said depots.

To prevent extortion by carriers of passengers or baggage, hacks, drays and public conveyances, by establishing maximum rates of charges and providing penalties for violation thereof.

To provide and fix by ordinance public stands where hacks and drays, baggage wagons or other public carriers shall stand on the streets of said City for the purpose of soliciting business, and to prescribe that they shall not stand, except when receiving or discharging passengers or freight, at any points, other than those designated in the ordinance as public stands.

To suppress gambling houses, and to punish keepers of gambling houses and pool sellers, and all persons who play cards or games of chance of any kind, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawings or lotteries.

To provide for the regulation of bakers, and to prescribe the weight, quality and price for bread manufactured or sold in the City of Houston, according to the price of the material or otherwise, and to provide for the inspection of milch cattle, whether kept within the City or without the City limits, from which milk is sold within the City, and to provide for the inspection of the milk offered for sale, and to prescribe the fees to be charged therefor.

To establish and regulate public pounds and to regulate and restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, geese and pigeons, and to authorize the distraining, impounding and sale of the same for the cost of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties upon the owners thereof for the violation of any ordinance regulating or prohibiting the same.

To tax, regulate, restrain and prohibit the running at large of dogs, and authorize their destruction when at large contrary to ordinance, and to impose penalties on the owners or keepers thereof.

To prohibit and restrain or regulate the rolling of hoops, the flying of kites and firing of fire crackers, the use of velocipedes and bicycles, and the use of any pyrotechnic or any other amusement or practice tending to annoy persons passing in the streets or sidewalks or to frighten horses and teams.

To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods, and all other noises, practices and performances, tending to the collection of persons in the streets or sidewalks by auctioneers and others for the purpose of business, amusement or otherwise.

To prohibit mendicants, beggars or persons of infirm or maimed bodies, or suffering with diseases of any kind, from soliciting alms, help or assistance upon the streets or sidewalks of said City, and to prescribe a penalty by fine for a non-observance thereof.

To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines or locomotives within the City limits and to regulate the speed thereof.

To regulate and control the driving of cattle, horses and all other animals into or through the City.

To prevent all trespasses and breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive, profane and insulting language, misdemeanors and all disorderly conduct, and punish all persons thus offending.

To prevent and punish the keepers of houses in which loud or immoral theatrical representations are given, and to adopt summary measures for the removal or suppression of all such establishments.

The City Council shall have power to require, on due notice, all steam or street railway companies owning tracks within the City limits upon the public streets or highways of said City, which may have been or may hereafter be abandoned by said companies by non-use, to remove such hacks and to restore at their own expense the street or way upon which such abandoned track is located to the proper grade.

To prohibit, prevent and suppress horse racing, immoderate riding and driving in the streets of said City.

To regulate the use of automobiles and the speed thereof.

To prohibit and punish the abusers of animals.

To compel persons to fasten their horses or other animals attached to vehicles or otherwise hitched or standing in the streets.

To restrain and punish vagrants, mendicants, beggars and prostitutes.

To regulate and control the sale, gift, barter or exchange of cocaine, opium, morphine, and the salts thereof. (Act of 1905)

Sec. 17. Franchises.

The right of control, easement, user and the ownership of and title to the streets, highways, public thoroughfares and property of the City of Houston, its avenues, parks, bridges and all other public places and property are hereby declared to be inalienable, except by ordinance duly passed by a majority of all the members of the City Council and approved by the Mayor; and no grant of any franchise or lease, or right to use the same, either on, along, through, across, under or over the same by any private corporation, association or individual, shall be granted by the City Council unless submitted to the vote of the legally qualified voters of said City, for a longer period than thirty years; provided, however, that whenever application is made for any grant of franchise, lease right or privilege in or to the streets and public thoroughfares of the City of Houston by any person or corporation, if they so request, the Council shall submit the same at an election called for said purpose, the expense of which shall be borne by the applicant for said franchise, and at said election, if the majority of the votes cast by the legally qualified voters shall be in favor of making said grant as applied for, said grant may be made for such a term of years as is specified in the ordinance submitting the same at said election; provided, however, that no grant shall be made or authorized for a longer period than fifty years.

The City Council may also, upon its own motion, submit all applications or ordinances requesting the granting of franchises or special privileges in or to the streets, public thoroughfares and highways of the City of Houston to an election, at which the people shall vote upon the propositions therein submitted, the expense of which election shall be paid by the applicant or applicants therefor. No such franchise shall ever be granted until it has been read in full at three regular meetings of the Council, nor shall any such franchise, grant, right or easement ever be made to any private individual, corporation or association, unless it provides for adequate compensation or consideration therefor, to be paid to the City of Houston, and in addition to any other form of compensation, grantee shall pay annually such a fixed charge as may be prescribed in the franchise. Such grant under and any contract in pursuance thereof shall provide that upon the termination of the grant, the grant, as well as the property, if any, of the grantee, in the streets, avenues and other public places, shall thereupon, without other or further compensation to the grantee, or upon the payment of a fair valuation therefor (the mode of ascertaining which shall be determined in the grant), be and become the property of the City of Houston, and the grantee shall never be entitled to any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated.

Every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and to maintain the property in good order throughout the life of the grant.

The City Council may also inspect and examine or cause to be inspected and examined at all reasonable hours any books of account of such grantee, which books of account shall be kept and such reports made in accordance with the forms and methods prescribed by the City Council, which, as far as practicable, shall be uniform for all such grantees. (Act of 1905)

Section 18. Referendum.

Whenever application is made to the city council of the City of Houston for any such grant or

franchise, lease or right to use the streets, public highways, thoroughfares or public property of the City of Houston as is provided for in the preceding section of this act, or whenever an ordinance is introduced in the city council proposing to make the grant of any franchise, lease or right to use the public highways, streets, thoroughfares and public property of the City of Houston, such ordinance shall set forth in detail all the rights, powers and privileges granted or proposed to be granted, and notice as to the contents of said ordinance shall be given by publishing in some daily newspaper published in the City of Houston, once a week for three consecutive weeks, a notice which includes the name of each grantee, a description of the nature of the proposed grant, and the location where the entire ordinance may be found, which ordinance may not be changed after the notice is published unless another notice is published in the same manner after such change, which publication or publications shall be made at the expense of the applicant or the person or persons desiring said grant, and no such grant shall be made or ordinance passed until after publication of a notice in the manner aforesaid, nor shall any such ordinance confirming or making any such grant, lease or right to use the streets, public highways and thoroughfares of the City of Houston take effect or become a law or contract, or vest any right in the applicants therefor, until after the expiration of thirty days after said ordinance has been duly passed by the city council and been approved by the mayor.

Pending the passage of any such ordinance or during the time intervening between its final passage and approval by the mayor, and the expiration of the thirty days before which time it shall not take effect, it is hereby made the duty of the city council to order an election if requested so to do by written petition signed by at least five hundred legally qualified voters of said city, at which election the legally qualified voters of said city shall vote for or against the proposed grant as set forth in detail by the ordinance conferring the rights and privileges upon the applicants therefor, which said ordinance shall be published at length and in full in the call for said election made by the mayor, and if at said election the majority of the votes cast shall be for said ordinance and

the making of said proposed grant, the same shall thereupon become effective; but if a majority of the votes cast at said election so held shall be against the passage of said ordinance and the making of said grant, said ordinance shall not pass, nor shall it confer any rights, powers or privileges of any kind whatever upon the applicants therefor, and it shall be the duty of the city council, after canvassing the vote of said election, to pass an ordinance repealing the ordinance which has been by it passed, if the same has been passed.

No grant of franchise, or lease or right of user, in, upon, along, through, under or over the public streets, highways or public thoroughfares of the City of Houston shall be made or given nor shall any rights of any kind whatever be conferred upon any person, private corporation, individual or association of any kind whatever, except the same be made by ordinance duly passed by the city council, nor shall any extension or enlargement of any rights or powers previously granted to any corporation, person or association of persons, in, upon, along, through, under or over the streets of the City of Houston be made, except in the manner and subject to all of the conditions herein provided for in this act for the making of original grants and franchises; provided, however, that the provisions of this section shall not apply to the granting of sidetrack or switch privileges to railway companies for the purpose of reaching, and affording railway connection and switch privileges to the owners or users of any industrial plants; it being the intention to permit the city council to grant such rights of privileges to railway companies whenever in their judgment the same is expedient, necessary or advisable. (Act of 1905; amended August 14, 1982)

Sec. 19. Contracts.

No contract shall ever be made which binds the City to pay for personal services to be rendered for any stated period of time; but all contracts involving a personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city.

Nor shall the City of Houston or any one acting for it make any contract for supplies for the current use of any department of the municipality for a longer period than twelve months, unless the council approves a longer period of time not exceeding five years for a specific contract by motion, resolution or ordinance adopted by a vote of at least two-thirds of the Council Members present and voting.

No contract shall be entered into until after an appropriation has been made therefor, nor in excess of the amount appropriated, and no contract shall be binding upon the city unless it has been signed by the mayor and countersigned by the controller, and the expense thereof charged to the proper appropriation, and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be countersigned by the controller.

In every instance required by state law, contracts shall be submitted for competitive bidding prior to being entered into by the City. Procedures for such competitive bidding shall be prescribed by the council, but the procedures must be in accordance with state law. (Act of 1905; amended January 27, 1968, August 14, 1982)

Sec. 19a. Certificate of controller prerequisite to ordinance, etc., appropriating money.

No contract, agreement or other obligation involving the expenditure of money in excess of the limitation amount determined as provided in this paragraph, below, shall be ordered, authorized, entered into, or executed by any officer of the city unless same be, by authority of ordinance, resolution or motion, nor shall any ordinance, for the appropriation of money, or any ordinance, resolution or motion for the making of any contract, agreement or other obligation requiring the expenditure of money, be passed by the council unless the controller first certify to the council, that the money required for such contract, agreement, obligation or expenditure is in the treasury, and not appropriated for any other purpose, or that the funds will be received into the treasury and be available before the maturity of said obligation, and that the said funds anticipated

have not been already appropriated for any other purpose, which certificate shall be filed and immediately recorded. The limitation amount referred to above shall be equal to the maximum dollar amount of an expenditure that the City is generally allowed to make without taking competitive bids for contracts under state law, as amended from time to time.

If moneys be not actually in the treasury to the credit of the fund from which it is to be drawn, but will be received into the treasury before the maturity of the obligation, the controller shall not certify that the funds will be available unless the moneys are to be derived from lawfully authorized bonds sold and in process of delivery or that the funds are anticipated to be derived from current or general revenues such as from taxes or assessments, or from sales of services, products or by-products, or from any undertakings, fee charges, accounts and bills receivable, or for other items in process of collection, and will be available before maturity of the obligation; and he shall show from what source the funds will be derived, and if the amount anticipated is to come from the general revenues of the city, he shall certify further that the amount including the aggregate of amounts previously certified or anticipated either by budget or appropriation, will not exceed the revenues levied or assessed for the fiscal year.

Any sum certified by the controller shall not thereafter be considered as unappropriated or subject to reappropriation until the city is discharged from the contract, agreement or obligation. (Added by amendment October 15, 1913; amended August 14, 1982, November 2, 1999)

Sec. 20. Pension plans.

The City Council shall provide a plan for the payment of pensions to City Policemen, Police Alarm Operators, City Firemen and Fire Alarm Operators, and such other groups of City employees as the City Council and/or the legislature, from time to time, may authorize; and, beginning with the fiscal year 1934, appropriate funds in aid thereof. (Added by amendment January 28, 1933)

Note—The title of this section was added by the editor; it was not titled in the Ordinance calling the 1933 Charter Election.

Note—The title of this article was added by the editor; it was not titled in the 1905 Special Act or any of the subsequent amendments.

Section 21. METRO rail system projects.

City Council shall not hereafter grant any permission, consent, or authorization required by the Metropolitan Transit Authority of Harris County (METRO) in connection with the construction, maintenance, or operation of all or part of a rail system unless METRO previously has conducted an election at which a majority of the METRO voters who participated in the election approved construction of the rail system. Such City permission, consent, or authorization shall not be subject to any election under this Charter. The construction, maintenance, or operation of the rail system project described in Ordinance 2000-1028 shall not be subject to any election by the City or METRO under this section or any other section of this Charter.

(Added by amendment November 6, 2001)

Section 22. Denial of benefits to same sex partners and related matters.

Except as required by State or Federal law, the City of Houston shall not provide employment benefits, including health care, to persons other than employees, their legal spouses and dependent children; nor shall the City provide any privilege in promotion, hiring, or contracting to a person or group on the basis of sexual preference, either by a vote of the city council or an executive order by the Mayor. Further, the City of Houston shall not require entities doing business with the City to have any of the above benefits or policies.

If any portion of this proposed Charter amendment is declared unlawful, then such portion shall be removed and the remainder of the Charter amendment will remain in effect. Any ordinance in conflict with this section of the Charter is hereby repealed and declared invalid.

(Added by amendment November 6, 2001)

Note—This section was submitted by a voter petition that did not specify a title, article or section number. The title was added by the editor, and the section was designated as Section 22 by the editor.